

Public Chapter 503

HOUSE BILL NO. 1660

By Representatives Patton, Boyer, Bowers, Hood, Halteman Harwell, Boner, Ford, McMillan, Eckles, Kent, Ralph Cole, Pinion, Maddox, Givens, Fitzhugh, Godsey, Mumpower, Pruitt, Langster, Armstrong, Brenda Turner, Stulce, White, McAfee, McDaniel, Clabough, Newton, Haley, Kerr, Goins, Bird, Sands, Bittle and Mr. Speaker Naifeh

Substituted for: Senate Bill No. 1065

By Senators Haynes, Henry, Herron, Crowe, Kurita, Cohen, Williams

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 6, Part 3, relative to grandparents visitation rights.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-302, is amended by deleting subsections (a) and (b) in their entirety.

SECTION 2. Tennessee Code Annotated, Title 36, Chapter 6, Part 3, is amended by adding the following new sections:

Section 36-6-305. (a) If:

- (1) Either the father or mother of an unmarried minor child is deceased;
- (2) The child's father and mother are divorced or legally separated;
- (3) The child's father or mother has been missing for not less than six (6) months; or
- (4) The court of another state has ordered grandparent visitation; then, the parents of such deceased person or the parents of either of such divorced or separated persons or the parents of the missing person may be granted reasonable visitation rights to the child during its minority by a court of competent jurisdiction upon a finding that such visitation rights are in the best interests of the minor child, based on the factors in §36-6-306(d)(2).

(b)(1) Notwithstanding the provisions of §36-1-121, if a relative or stepparent adopts a child, the provisions of §36-6-306 apply.

(2) If a person other than a relative or a stepparent adopts a child, any visitation rights granted pursuant to this section before the adoption of the child shall automatically end upon such adoption.

Section 36-6-306. (a) If a relative or a stepparent adopts a child, the General Assembly finds that it is sound public policy to provide children with the stability and continuity of meaningful relationships in their lives. If grandparents have had a sufficient existing relationship with a child, a loss of that relationship would be a severe emotional and psychological blow to the child, and such a loss creates a rebuttable presumption of substantial danger to the welfare of the child.

(b) A grandparent whose child is the absent biological parent may petition the court for reasonable visitation rights if a sufficient relationship exists between the grandparent and the child.

(c) A grandparent shall be deemed to have a sufficient existing relationship with a grandchild if:

(1) The child has resided with the grandparent for at least six (6) consecutive months during the two (2) years preceding the filing of the petition for visitation rights and neither of the child's parents were living in the same household;

(2) The child and his or her parents have resided with the grandparents for not less than one (1) year ending within the year preceding the filing of the petition for visitation rights;

(3) The grandparent has been a full-time caretaker of the child for a period of not less than six (6) consecutive months in the two (2) years preceding the filing of the petition for visitation rights; or

(4) The grandparent has had frequent visitation with the child who is the subject of the suit for a period of not less than one (1) year during the two (2) years preceding the filing of the petition for visitation rights.

(d)(1) In a hearing concerning a petition by a grandparent for reasonable rights of visitation, the court shall make the following findings of fact:

(A) The grandparent has a sufficient existing relationship as defined in subsection (c); and

(B) The visitation is in the best interests of the child.

(2) In determining the best interests of the child under this section, the court shall consider a number of factors, including but not limited to the following:

(A) The length and quality of the prior relationship between the grandparent and the child;

(B) The existing emotional ties of the child to the grandparent;

(C) The preference of the child if the child is determined to be of sufficient maturity to express a preference;

(D) The effect of hostility between the grandparent and the parent on the child manifested before the child, and the willingness of the grandparent, except in case of abuse, to encourage a close relationship between the child and the parent(s) or guardian(s) of the child;

(E) The good faith of the grandparent in filing the petition;

(F) If the parents are divorced or separated, the time-sharing arrangement that exists between the parents with respect to the child; and

(G) If one (1) parent is deceased or missing, the fact that the grandparents requesting visitation are the parents of the deceased or missing person.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect June 1, 1997, the public welfare requiring it, and shall apply to any petition for visitation rights filed on or after such date.